

9200/1636
~~DACT~~

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Sylvie LURIA

Serial No.: 09/449,532

Filed: 29 Nov 1999

For: Expression Systems and Methods for
Detecting and Isolating Polypeptides
Regulating Signal Transduction Pathways

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Group Art Unit:

Attorney

Docket: 00/20820

Previous: 2105/1

Commissioner of Patents and Trademarks
Washington, D.C. 20231

PETITION UNDER 37 CFR 1.181 TO

WITHDRAW HOLDING OF ABANDONMENT

Sir:

This is in response to the United States Patent and Trademark Office Notice of Abandonment letter mailed June 4, 2001. In it, the U.S. Patent & Trademark Office asserts that Applicants did not respond to an Office letter dated October 25, 2000.

Applicants thus never received such Office letter. In fact, no communication was received from the USPTO in connection with the instant application until receipt of the above Notice of Abandonment.

Applicants' representative, Anthony J. Castorina, of 2001 Jefferson Davis Highway, Suite 207, Arlington, Virginia who received all the mail addressed to the undersigned from the U.S. Patent and Trademark Office, declared that as the sole occupant of the above address, he personally opened all the mail received at the above address that is addressed to the attorney of record, Mark Friedman. Mr. Castorina declared that he routinely records all items that require action or responses of Mr. Friedman in a mail log. Mr. Castorina further declared that he then personally

packages all the mail directed to Mr. Friedman and forwards in a Federal Express package to Mr. Friedman at his Tel Aviv address. Mr. Castorina declared that he has reviewed all of his entries from October 25, 2000 through November 19, 2000 and has included true copies thereof and has no USPTO action recorded therein for the above identified patent application. Mr. Castorina declared that as a result, no such October 25, 2000 letter was received by him with respect to this application.

Also attached is the amended declaration from Mr. Friedman, the previous attorney of record, in which he declares that he personally opens all the Federal Express packages received from Mr. Castorina and immediately records on his database all actions received from the U.S. Patent Office. He declares that based on the database records of his, no such letter or any other action for this date is recorded on the above identified application. Mr. Friedman further declares that he has reviewed the file jacket of the above identified application and it does not contain the letter allegedly mailed by the U.S. Patent Office on October 25, 2000. Mr. Friedman declares that other than the database entries for individual applications, he does not keep a mail log for received mail from any associates. Mr. Friedman declares that as a result, no such action was received by him with respect to this application.

Accordingly, pursuant to the holding of *Delgar, Inc. v. Schuyler*, 172 USPQ 513, Applicants have submitted sufficient facts to support the contention that the letter of October 25, 2000 was never received by Applicants representatives.

In view of the above, the Notice of Abandonment should be withdrawn and a New letter identical to that of the one mailed on October 25, 2000 be re-mailed on the subject patent application. The reason for this submission being slightly late is due to the new attorney of record handling the application, as well as researching and copying the necessary documentation for this Petition.

It is believed that this Petition does not require a fee, but if one is required,
authorization to charge Deposit Account 50-1407 is hereby granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sol Sheinbein", is written over a horizontal line.

Sol Sheinbein
Attorney for Applicant
Registration No. 25,457
Date: March 1, 2002



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Commissioner of Patents and Trademarks
Washington, D.C. 20231

DECLARATION IN SUPPORT OF PETITION

I, Mark Friedman, of 7 Haomanim Street, Tel Aviv, Israel declare as follows:

1. Since 1997 I have been using the services of Anthony Castorina of 2001 Jefferson Davis Highway, Suite 207, Arlington, Virginia as my correspondence address on all U.S. Patent and Trademark applications of which I am the attorney of record.

2. As part of his duties and responsibilities as my correspondent address, I instructed Mr. Castorina to receive, open, docket and forward all mail addressed to me at his address above. I have instructed him to personally open all the mail addressed to me and routinely docket in a log all U.S. Patent & Trademark Office actions requiring further action on my part. I also asked him to ship me all the mail addressed to me received by him by Federal Express and notify me by telefax of the Federal Express Waybill number.

3. Based on receipt of all Federal Express Waybills I was advised of, all Federal Express shipments that Mr. Castorina has shipped to me have been received by me. None has ever not been delivered.

4. I personally open the shipments received from Mr. Castorina and record the actions received in my database. Attached herewith is a true copy of all the entries on my computer database made on Serial No. 09/449,532, identified by my Docket 2105/1. No entry of docketing any action on or about October 25, 2000 appears thereon. The only entries for this application relate to a response due July 20, 2000, and foreign filing Paris Convention reminders.

5. I do not keep, nor have a mail log, of all received items. Rather, I personally record all entries into my computer database for each individual application immediately upon receiving the shipments from Mr. Castorina and other associates. The database generates responses on actions due based on individual data entries for each application. I do not print out these response records and my database does not save these records after the due date has lapsed.

6. I personally reviewed the contents of the file jacket of Docket 2105/1 in my office after receiving the Notice of Abandonment to determine whether the October 25, 2000 letter is in the file jacket of file 2105/1. I did not find such letter in the file jacket.

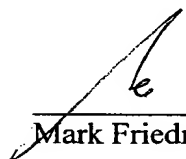
7. This indicates that I never received an Office action on the above identified application.

8. After having been notified of the Notice of Abandonment dated June 4, 2001 on the subject patent application, for failure to respond to the October 25, 2000 letter, I asked Mr. Castorina to review his records from October 25, 2000, the date of the alleged mailing of the USPTO letter, through November 19, 2000, a reasonable

period after the date of the Office Action, to determine whether he had recorded receipt of any action on the above identified application. After reviewing his records, Mr. Castorina advised me that he had not recorded receipt of any action on this application, indicating that he had never received such October 25, 2000 USPTO Office action.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Signed this 26th date of February, 2002



Mark Friedman

DOCKET CURRENT FILE

2105/1	US - OA 30 Days 1st Rem.	04-Jul-00	20-Jul-00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		05-Jul-00
2105/1	US - OA 30 Days Call Client***	12-Jul-00	20-Jul-00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		05-Jul-00
2105/1	US - OA 30 Days Deadline***	20-Jul-00	20-Jul-00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		05-Jul-00
2105/1	Patent Convention - 1st Reminder	29-Jul-00	29-Nov-00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		05-Apr-00
2105/1	Patent Convention - 2nd Reminder	29-Sep-00	29-Nov-00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		05-Apr-00
2105/1	Patent Convention - Call Client*	18-Nov-00	29-Nov-00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		05-Apr-00
2105/1	***PATENT CONVENTION***	29-Nov-00	29-Nov-00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		05-Apr-00

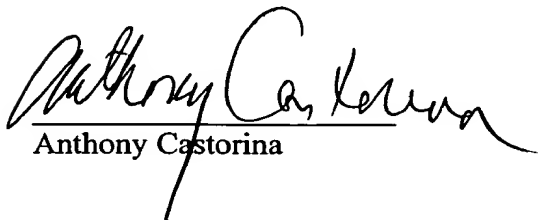
2. My duties and responsibilities as the correspondent address of Mr. Friedman is to receive, open, docket and forward all mail addressed to Mr. Friedman at the above address. I am the only one occupying the above address, and as such, personally open all the mail addressed to Mr. Friedman. I personally and routinely docket in a log all U.S. Patent & Trademark Office actions that are addressed to him that require some further action on his part. I then package all the mail received and personally deliver it to Federal Express in Arlington, Virginia for shipment to Mr. Friedman in Israel, and notify him of the Federal Express Waybill number.

3. After having been informed by Mr. Friedman that he had received a Notice of Abandonment on the above identified application for failure to respond to an Office action dated October 25, 2000, he instructed me to review my records from October 25, 2000 through November 19, 2000 to determine whether I had recorded receipt of such October 25, 2000 or any other USPTO action with respect to this application for this time period.

4. I thereupon reviewed my records for the time period requested by Mr. Friedman, and did not locate any notation of any action during the time period in question in my log book routinely kept by me. True copies of the pages from those entries are attached herewith. As such, I can state that I never received such October 25, 2000 action or any other action with respect to this application at any time between October 25, 2000 and November 18, 2000.

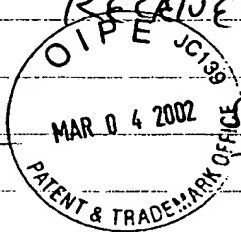
I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Signed this 28th day of February, 2002


Anthony Castorina

MAIL RECEIVED WEEK OF NOV 6-10, 2006

File No.



Serial No.

Date Received

744/16

09/391,611

Nov 6

567/13

09/142,851

Nov 7

1140/4

09/292,607

Nov 7

1023/6

09/202,585

Nov 7

1421/7

09/203,811

Nov 8

995/22

09/195,422

Nov 8

1821/3

13 00/01630

Nov 7

MAIL RECEIVED WEEK OF NOV 13-17, 2000

File No. Serial No. Date Received

1471/7

761 060,627

Nov 13

1851/3

091 403,866

Nov 13

1737/4

0500/4070

Nov 15

1748/2

0500/20395

Nov 15

16/20

09144, 537

Nov 16

1822/3

75/812,068

Nov 16

1822/5

75/812, 136

Nov 17

982/5

75/832,416

Nov 17

MAIL RECEIVED WEEK OF OCTOBER 23-27, 2000

<u>File No.</u>	<u>Serial No.</u>	<u>Date Received</u>
1514/1	US 99/30533	Oct 23
1723/1	76/026,534	Oct 24
1714/1	09/330,596	Oct 25
1296/8	09/435,688	Oct 25
1346/6	09/245,236	Oct 25
1458/1	09/200,720	Oct 25
1789/1	09/389,356	Oct 26
1792/1	09/384,994	Oct 27
27/130	09/391,609	Oct 27



MAIL RECEIVED WEEK OF OCTOBER 30-NOV 3, 2000

<u>File No.</u>	<u>Serial No.</u>	<u>Date Received</u>
1582/1	09/253,780	Oct 31
1268/2	09/538,217	Nov 1
1260/1	09/247,780	Nov 2
919/3	09/331,622	Nov 3

